SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok **Tuesday 6th April, 2004** **No.160**

GOVERNMENT OF SIKKIM
ELECTION DEPARTMENT
GANGTOK.

NO. 05/2004/Elec. **DatedGangtok the 5th April, 2004**

Order No. 3/4/ID/ 2004/JS-II dated 2nd April, 2004 of the Election Commission of India, New Delhi is hereby republished for general information:-

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

No. 3/4/ID/2004/J.S. II **Dated: 2nd April, 2004.**

ORDER

1. Whereas, Section 61 of the Representation of the People Act, 1951 provides that with a view to preventing impersonation of electors, so as to make the right of genuine electors to vote under section 62 of that Act more effective, provisions may be made by rules under that Act for use of Electoral Identity Cards for electors as the means of establishing their identity at the time of polling ; and

2. Whereas, Rule 28 of the Registration of Electors Rules, 1960, empowers the Election Commission to direct, with a view to preventing impersonation of electors and facilitating their identification at the time of poll, the issue of Electoral Identity Cards to electors bearing their photographs at State cost; and

3. Whereas, Rules 49H (3) and 49K (2) (b) of the Conduct of Elections Rules, 1961, stipulate that where the electors of a constituency have been supplied with Electoral Identity Cards under the said provisions of Rule 28 of the Registration of Electors Rules, 1960, the electors shall produce their Electoral Identity Cards at the polling station and failure or refusal on their part to produce those Electoral Identity Cards may result in the denial of permission to vote; and

4. Whereas, a combined and harmonious reading of the aforesaid provisions of the said Act and the Rules, makes it clear that although the right to vote arises by the existence of the name in the electoral roll,it is also dependent upon the use of the Electoral Identity Card, where provided by the Election Commission at State cost, and that both are to be used together ; and

5. Whereas, the Election Commission made an Order on the 28th August, 1993, directing the issue of Electoral Photo Identity Cards (EPICs) to all electors, according to a time bound programme ; and

6. Whereas, the Commission has taken note of the fact that over the last few years since the implementation of the programme of issue of EPICs was taken up, the election machinery of the States have issued these cards to a substantially high number of electors and made all possible efforts, by way of repeated rounds of the constituencies and areas, with a view to issuing cards to the left-out electors, many of whom might have been dead or might have moved out of the constituencies and obtained their Electoral Identity Cards elsewhere ; and

7. Whereas, at the general election to the Legislative Assembly of Haryana held in January-March, 2000, and to the Legislative Assemblies of Kerala, Tamil Nadu, West Bengal and Pondicherry in April-May, 2001 and to the Legislative Assemblies of Manipur, Punjab, Uttarachal, Uttar Pradesh, Goa and Gujarat held in 2002 and at the Legislative Assembly elections held in Himachal Pradesh, Meghalya, Nagaland, Tripura, Madhya Pradesh, Chhattisgarh, Rajasthan, Mizoram and Delhi last year, and at a number of bye-elections held in between, the Commission had directed that all electors who were issued with EPICs should produce those cards to exercise their franchise at the said elections, and that it would permit the odd electors who have not obtained their EPICs to vote at the said elections, provided their identity is otherwise established by production of one the alternative documents prescribed by the Commission; and

8. Whereas, the Supreme Court was apprised of the direction of the Commission regarding use of EPIC, in R.D. Bhandari & Others Vs. Election Commission of India & Others, and the Supreme Court was thereupon pleased to dismiss on 17.8.2000 all petitions relating to the issue of EPICs; and

9. Whereas, the Andhra Pradesh High Court and Punjab & Haryana High Court, Madras High Court, High Court of Madhya Pradesh and High Court of Karnataka have also upheld the above direction of the Commission regarding compulsory identification of electors, in Writ Petition Nos. 2598, 2601 and 2637 of 2001, Writ Petition No. 3772 of 2000, Writ Petition No.5235 of 2001, Writ Petition 294 of 2002 and Writ Petition 5401 of 2002 respectively, and the Hon'ble Supreme Court in the interim order passed on in SLP No. 3820-21/2002, directed that the Commission's Order regarding identification of electors at the general election to the Uttar Pradesh Legislative Assembly held in January-February, 2002 would be implemented.

10. Now, therefore, after taking into account all relevant factors and the legal and factual position, the Election Commission hereby directs that all electors in all States and Union Territories who have been issued with their EPICs, shall have to produce these cards to exercise their franchise, when they come to the polling stations for voting at the current General Election to the House of the People and the Legislative Assemblies of Andhra Pradesh, Karnataka, Orissa and Sikkim and in the bye-elections to the State Legislative Assemblies in Assam, Bihar, Chhattisgarh, Kerala, Mizoram, NCT of Delhi, Tamil Nadu and Uttar Pradesh, which are being held simultaneously with the general election to the House of the People, and which have been/are scheduled to be notified on 24th March, 2004, 31st March, 2004, 8th April, 2004, and 16th April, 2004.

11. The Election Commission wishes to make it clear, at the cost of repetition, that the electors will have to establish their identity at the polling stations by means of the EPICs issued to them under the authority of the

Election Commission. However, since the use of EPICs for the purpose of voting is still in its early stages, the Commission, as a matter of abundant caution, will permit the odd electors who have not obtained their EPICs to vote at the current General Election, provided their identity is otherwise established to the satisfaction of the Presiding Officer or such other Polling Officer as is authorised by the Presiding Officer in this behalf. For the above purpose, they will have to produce some documentary evidence for establishing their identity, and the Commission has prescribed the following alternative documents for establishing the identity of such electors:-

(i) Passports.
(ii) Driving Licences.
(iii) Income Tax Identity (PAN) Cards.
(iv) Service Identity Cards issued to its employees by State/Central Government, Public Sector Undertakings, Local Bodies or other Private Industrial Houses.
(v) Bank/Kisan/Post Office Passbooks (Accounts opened on or before 31st March, 2004).
(vi) Student Identity Cards issued by Recognised Educational Institutions on or before 31st March, 2004.
(vii) Property Documents such as Pattas, Registered Deeds, etc.
(viii) Ration Cards issued on or before 31st March, 2004.
(ix) SC/ST/OBC Certificates issued by competent authority on or before 31st March, 2004.
(x) Pension Documents such as ex-servicemen's Pension Books/Pension Payment Order, ex-servicemen's Widow/Dependent Certificates, Old Age Pension Order, Widow Pension Order.
(xi) Railway Identification Cards.
(xii) Freedom Fighter Identity Cards.
(xiii) Arms Licenses.
(xiv) Certificate of Physical Handicap by Competent Authority issued on or before 31st March, 2004.

12. The above alternative documents for identification will also apply in respect of such of the odd electors, who have been supplied with Electoral Identity Cards, but are not able to produce them for reasons beyond their control.

13. It is further clarified that any document, as enumerated above, which is available only for the Head of Family, shall be allowed for the purpose of identification of other members of the family. Similarly, any document in the name of any other member of the family could also be used for identification of other members, provided the other members can be identified on the basis of such document.

By Order,

K.F. WILFRED
SECRETARY

D. L. Topden
Additional Chief Electoral Officer,
Sikkim

Printed at Sikkim Government Press, Gangtok.